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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,065	08/09/2001	Kelly A. Buttridge	0719.012	4308

23405 7590 06/05/2007  
HESLIN ROTHENBERG FARLEY & MESITI PC  
5 COLUMBIA CIRCLE  
ALBANY, NY 12203

EXAMINER

AKINTOLA, OLABODE

ART UNIT	PAPER NUMBER
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3691

MAIL DATE	DELIVERY MODE
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06/05/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/927,065

Applicant(s)

BUTTRIDGE ET AL.

Examiner

Olabode Akintola

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 8, 16-19, 21-44, 46-54 and 56-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8, 16-19, 21-44, 46-54 and 56-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/29/2007 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-4, 16-19, 21 and 23-29, 31-37, 39-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernando et al (USPN 6193152) (Fernando) in view of Gage et al ("Price Chopper Begins Electronic Check Capture", PR Newswire, New York, **June 20, 2000**) (Gage).

Re claims 1, 16 and 19-21: Fernando teaches a method for use in enabling check processing using a blank check at the point of sale, the method comprising: receiving a transaction amount at the point of sale, receiving checking account information from a blank check at the point of sale, receiving biometric information from an owner of the checking account; storing the transaction amount, the checking account information in at least one data storage; and generating an electronic check posting transaction request from the transaction amount and the checking account information; and forwarding the electronic check posting transaction request for settlement (col. 13, lines 35-54; Fig. 1, RN {210}).

Fernando does not explicitly teach receiving and storing an electronic image of a face of the blank check in at least one data storage unit. Gage teaches an electronic image of a face of a check (Page 3 of 5, paragraphs 3-6). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Fernando to include this step as taught by Gage. One would have been motivated to do so in order to store the image of the blank check for later retrieval.

Re claim 2: Fernando teaches the step of receiving biometric information from an owner of the

checking account (Fig. 1, RN {210}).

Re claims 3 and 17: Fernando teaches the step of receiving an electronic image of a handwritten signature from an owner of the checking account (Fig. 1, RN {70}).

Re claims 4 and 18: Fernando teaches the step comprising at least one of receiving information regarding a fingerprint of an owner of the checking account, information regarding a retina or an iris of the customer, an image of a face of the customer, a voice print of the customer, and a personal identification number (Fig. 1, RN {210}).

Re claims 23, 26, 28-29, 31, 34, 36-37, 39-40, 43-44, 46, 49-50 and 52-59: Fernando teaches method for enabling check processing using a blank check at a point-of-sale, the method comprising: receiving a blank check from a customer at the point-of-sale; receiving a transaction amount at the point of sale; receiving checking account information from a blank check at the point of sale; receiving biometric information from the customer at the point of sale; storing the transaction amount and the checking account information in at least one data storage unit; printing indicia on the face of the blank check to void the blank check; and returning the voided blank check to the customer; generating an electronic check posting transaction request from the transaction amount, and the checking account information; and forwarding the electronic check posting transaction request for settlement (col. 13, lines 35-60; Fig. 1, RN {210}).

Fernando does not explicitly teach an electronic image of a face of the blank check. Gage teaches an electronic image of a face of a check (Page 3 of 5, paragraphs 3-6). It would have been

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obvious to one of ordinary skill in the art at the time of the invention to modify Fernando to include this step as taught by Gage. One would have been motivated to do so in order to store the image of the blank check for later retrieval.

Re claims 24, 32, 41, 47 and 51: Fernando teaches the step of receiving the biometric information comprises receiving an electronic image of a handwritten signature from the customer (Fig. 1, RN {70}).

Re claims 25, 27, 33, 35, 42 and 48: Fernando teaches the step of receiving the biometric information comprises at least one of receiving information regarding a fingerprint of an owner of the checking account, information regarding a retina or an iris of the customer, an image of a face of the customer, a voice print of the customer, and a personal identification number (Fig. 1, RN {210}).

Claims 30 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernando in view of Gage and further in view of Preiser (USPAP 20020040344) (Preiser)

Re claims 30 and 38: Fernando does not explicitly teach the step comprising determining the check cashing privileges of the customer. Preiser teaches the step comprising determining the check cashing privileges of the customer (section [0024]-[0025]). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Fernando to include this step as taught by Preiser. One would have been motivated to do so in order to avoid bad/fraudulent

checks based on check-cashing history of the customer.

Claims 8 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernando in view of Gage and further in view of Yamaguchi et al (USPN 5577242) (Yamaguchi).

Re claims 8 and 22: Fernando and Gage teach the limitations of claims 8 and 22 but do not explicitly teach the step of transferring as a batch the plurality of transaction amounts, the plurality of checking account information, and plurality of electronic images of the faces of the blank checks to a warehouse data storage unit. Yamaguchi teaches the step of transferring as a batch one or more files; each files comprising a plurality of data (col. 10, lines 60-65). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Fernando to include this step as taught by Yamaguchi. One would have been motivated to do so in order to secure the data for later retrieval.

### ***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629.

The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA



HANI M. KAZIMI  
PRIMARY EXAMINER